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DACT #9

Docket No. 5088

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the patent application of Maier et al.

Serial No. 09/926821

Filing date: December 26, 2001

Title: A Solid Formulation of Glucosamine Sulphate

Office of Petitions

Attn: Rafael Bacares

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

RENEWED PETITION UNDER 37 C.F.R. 1.47(a)

Sir:

One of the two inventors (Parekh) has failed to sign the declaration for this application. We therefore request that examination of the application be allowed to go forward without his signature, based on the enclosed declaration signed by the other inventor (Maier) on his own behalf and on behalf of inventor Parekh.

Mr. Parekh's last known address is Alte Steinacherstrasse 10
8804 Au
Switzerland.

Our initial petition was denied without prejudice on April 18, 2003, on the ground that there was not sufficient factual proof that Mr. Parekh refused to sign the required documents. We are now submitting additional information, which includes a further declaration concerning a letter dated October 2, 2002 from René Wenger, addressed to Mr. Harish Parekh at his home address shown above.

09/24/2003 RWDNAF2 00000151 502486 09642829

01-FC:1460 130.00 DA

10/23/2003 SLUANG1 00000006 192110 09926821

01 FC:1460 130.00 DA

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Attached hereto are the following Exhibits:

1. Statement of Dieter Wolfgang Engel
2. Statement of Rene Wenger
3. Declaration of Stella Xanthis w/ Appendices -
 - A. Letters of October 2, 2002 and June 20, 2002
 - B. Hepp, Wenger & Ryffel internal log sheet
 - C. Post Office receipt ledger page
 - D. Post Office delivery documents
4. Verified translations of October 2, 2002 and June 20, 2002 letters.

Ms. Xanthis' declaration shows that the October 2 letter was sent by registered mail with return receipt, and that it referred to Mr. Wenger's earlier letter of June 20, 2002 addressed to Mr. Parekh at his business address. The June 20 letter included a request that Mr. Parekh sign the declaration. See the Statement of Rene Wenger. Dieter Engel separately confirms that on three occasions he had sent the application to Mr. Parekh at his business address, with a request that he sign the declaration.

Stella Xanthis, of Mr. Wenger's firm, states in her enclosed Declaration that she wrote the October 2 letter (Appendix "A"), as dictated by Mr. Wenger, to Mr. Parekh. Her declaration shows that she forwarded the letter to the post office that same day, as evidenced by her entry made in the firm's internal post delivery book (Appendix "B"), following the firm's ordinary business practices. The Swiss Post Office acknowledged receipt of the letter (Appendix "C") on September 2, and the next day confirmed delivery of the letter (Appendix "D").

There is no proof of an explicit oral refusal to sign by Mr. Parekh; however, the evidence shows that several attempts were made to contact Mr. Parekh and to secure his signature on the application, and that Mr. Parekh refused or did not reply (see statements of Mr. Engel and Mr. Wenger).

MPEP 409.03(d) covers the common situation where there is no express oral refusal. It requires that "a *bona fide* attempt was made to present a copy of the

application papers (specification, including claims, drawings and oath or declaration) to the non-signing inventor", e.g., by sending it to his "last known address". MPEP 409.03(d) also states "When it is concluded by the 37 CFR 1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration." We respectfully submit that these requirements have been met, and that it would be appropriate to grant the relief requested.

Please charge the petition fee due under 37 C.F.R. 1.17(i) to Deposit Account 09-2110. A petition for extension of time (with a check for the fee) is also enclosed.

Charles W. Fallow

Charles W. Fallow
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Monday, September 22, 2003